

AMENDED IN SENATE JUNE 4, 2003

**SENATE BILL**

**No. 753**

**Introduced by Senator Alpert**

February 21, 2003

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An act to amend Sections ~~14669.15 and 14669.16~~ 8169.6, 14669.15, 14669.16, and 14957 of the Government Code, relating to ~~state property~~ *public works projects*, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 753, as amended, Alpert. ~~State property~~ *Public works projects*: ~~state office space: San Diego.~~

~~The~~

(1) *The State Building Construction Act of 1955 authorizes the State Public Works Board to acquire or construct public buildings and to issue revenue bonds, negotiable notes, and negotiable bond anticipation notes to finance that construction. That act also permits the leasing of these public buildings by the board to the Department of General Services or any other state agency approved by the department.*

~~Existing~~

*Existing law authorizes the Director of General Services to purchase, exchange, or otherwise acquire real property and construct facilities within the jurisdiction of the Capitol Area Plan for a project consisting of approximately 1,400,000 gross square feet of office space on specified state-owned land with the authorized costs of the facilities not to exceed \$391,000,000.*

*This bill would revise various provisions related to this project, including requiring the Department of General Services, in the event the bonds authorized for the project are not sold, to commit a sufficient*

*amount of its support budget to repay any outstanding loans. The bill would specify that the authorized costs of the facilities include the costs of planning and concept drawings. The bill would authorize and direct the department to execute and deliver any and all leases, contracts, agreements, or other documents to consummate the sale of the bonds or otherwise effectuate the financing of the project.*

(2) Existing law authorizes the Director of General Services to enter into one or more agreements to acquire, construct, purchase, lease, lease-purchase, lease-purchase finance, or lease with an option to purchase, with an initial option purchase price that exceeds \$2,000,000, for the purpose of providing approximately 226,100 net usable square feet of office and related space and 136,000 net usable square feet of parking in a suburban location in the San Diego region. Existing law also authorizes the Director of General Services to enter into a joint powers agreement with the City of San Diego in connection with the development of approximately 241,000 net usable square feet of new state-owned office space and related facilities at a designated location in San Diego and provides that the authorized costs of the facilities may not exceed \$81,000,000. Existing law authorizes the director to sell, lease, or exchange, based on current market value, the existing state office and parking facilities located in the City of San Diego and requires the net proceeds from these transactions be applied toward any obligation undertaken by the director in securing consolidated facilities for the development of new state-owned office space and related facilities in San Diego described above.

This bill would delete the authority of the director to sell, lease, or exchange the existing state office and parking facilities located in the City of San Diego.

The bill would also delete the authority of the director to enter into a joint powers agreement with the City of San Diego for the development of approximately 241,000 net usable square feet of new state-owned office space and related facilities described above and, instead, would authorize the director to develop these facilities, including the deconstruction of these facilities. The bill would authorize the State Public Works Board to issue revenue bonds, negotiable notes, or negotiable bond anticipation notes to finance the acquisition of the facilities authorized by the bill. The bill would authorize the State Public Works Board to borrow funds for project costs from the Pooled Money Investment Account, a continuously appropriated fund, *or any other lawfully available source*. The bill



would provide that the authorized costs of the facilities, including land acquisition, preliminary plans, working drawings, and construction may not exceed ~~\$81,000,000~~ \$96,000,000.

The bill would authorize the director to form a *voluntary* design advisory committee composed of representatives designated by the City of San Diego and any other individuals designated by the director ~~for the purpose of providing comments and suggestions regarding the design of the development~~ and would require the director to define the functions of the design advisory committee.

~~This~~

(3) *Existing law continues in existence the Division of Architecture Revolving Fund and renames that fund the Architecture Revolving Fund. Existing law also provides that money transferred or deposited into the fund is available for expenditure by the Department of General Services for the purposes for which it is appropriated, contributed, or made available, without regard to fiscal years, with respect to the construction, alteration, repair, and improvement of state buildings.*

*This bill would expressly provide that moneys in the fund are continuously appropriated without regard to fiscal years.*

(4) *This bill would declare that it is to take effect immediately as an urgency statute.*

Vote: <sup>2</sup>/<sub>3</sub>. Appropriation: yes. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. *Section 8169.6 of the Government Code is*  
2 *amended to read:*

3 8169.6. (a) In furtherance of the Capitol Area Plan, the  
4 objectives of Resolution Chapter 131 of the Statutes of 1991, and  
5 the legislative findings and declarations contained in Chapter 193  
6 of the Statutes of 1996, relative to the findings by the Urban Land  
7 Institute, the director may purchase, exchange, or otherwise  
8 acquire real property and construct facilities, including any  
9 improvements, betterments, and related facilities, within the  
10 jurisdiction of the Capitol Area Plan in the City of Sacramento  
11 pursuant to this section. The total authorized scope of the project  
12 shall consist of approximately 1,400,000 gross square feet of  
13 office space on state-owned land in the Capitol area in downtown  
14 Sacramento on Block 204 (bounded by 7th, 8th, O, and P Streets)

1 or Block 203 (bounded by 7th, 8th, N, and O Streets, or both of  
2 those blocks). The project will include associated parking onsite  
3 and in a parking garage to be constructed on Block 266 (bounded  
4 by 8th, 9th, Q, and R Streets). The project cost shall include the  
5 cost of rehabilitation of the Heilbron House currently located on  
6 Block 204, and the project cost may include the cost of relocation  
7 of the Heilbron House.

8 (b) (1) The department may contract for the lease,  
9 lease-purchase, lease with an option to purchase, acquisition,  
10 design, design-build, construction, construction management, and  
11 other services related to the design and construction of the office  
12 and parking facilities. *If the director selects design-build as the*  
13 *method of delivery, the department shall use the method of*  
14 *design-build authorized by clause (i) of subparagraph (A) of*  
15 *paragraph (3) of subdivision (d) of Section 14661. The State*  
16 *Public Works Board may issue revenue bonds, negotiable notes,*  
17 *or negotiable bond anticipation notes pursuant to Chapter 5*  
18 *(commencing with Section 15830) of Part 10b the State Building*  
19 *Construction Act of 1955 (Part 10b (commencing with Section*  
20 *15800) of Division 3) to finance all costs associated with the*  
21 *acquisition, design, and construction of office and parking*  
22 *facilities for the purposes of this section. The State Public Works*  
23 *Board and the department may borrow funds for project costs from*  
24 *the Pooled Money Investment Account pursuant to Sections*  
25 *16312 and 16313. In the event the bonds authorized by the project*  
26 *are not sold, the tenant state agencies identified for the building,*  
27 *as determined by the Department of Finance, Department of*  
28 *General Services shall commit a sufficient amount of their-its*  
29 *support appropriations budget to repay any outstanding loans*  
30 *made for the project from the Pooled Money Investment Account.*  
31 It is the intent of the Legislature that this commitment shall be  
32 included in future Budget Acts until all outstanding loans ~~from the~~  
33 ~~Pooled Money Investment Account~~ are repaid either through the  
34 proceeds from the sale of bonds or from an appropriation.

35 (2) The amount of revenue bonds, negotiable notes, or  
36 negotiable bond anticipation notes to be sold may equal, but shall  
37 not exceed, the cost of *land, planning, preliminary plans, working*  
38 *drawings or concept drawings, performance criteria,*  
39 *construction, furnishings, equipment, construction management*  
40 *and supervision, other costs relating to the design and construction*

1 of the facilities, *exercising any purchase option*, and any additional  
 2 sums necessary to pay interim and permanent financing costs. The  
 3 additional amount may include interest and *the establishment of a*  
 4 ~~reasonable-required~~ *construction reserve fund to ensure that the*  
 5 *funds are available in the event future augmentations are needed*  
 6 *to complete the facilities authorized by this section. In the event the*  
 7 *construction reserve funds are not needed to complete*  
 8 *construction, they shall be used to repay the future debt payments.*

9 (3) Authorized costs of the facilities for *planning, concept*  
 10 *drawings or preliminary plans, working drawings, demolition,*  
 11 *construction, and other costs shall not exceed three hundred*  
 12 *ninety-one million dollars (\$391,000,000). Notwithstanding*  
 13 *Section 13332.11, the State Public Works Board may authorize the*  
 14 *augmentation of the amount authorized under this paragraph by up*  
 15 *to 10 percent of the amount authorized.*

16 (4) The net present value of the cost to acquire and operate the  
 17 facilities authorized by subdivision (a) may not exceed the net  
 18 present value of the cost to lease and operate an equivalent amount  
 19 of comparable consolidated office space over the same time  
 20 period. The department shall perform this analysis and shall obtain  
 21 interest rates, discount rates, and Consumer Price Index figures  
 22 from the Treasurer. For purposes of this analysis, the department  
 23 shall compare the cost of acquiring and operating the proposed  
 24 facilities with the avoided cost of leasing and operating an  
 25 equivalent amount of comparable consolidated office space that  
 26 would no longer need to be leased.

27 ~~(5) The director may execute and deliver a contract with the~~  
 28 ~~State Public Works Board for the lease of the facilities described~~  
 29 ~~in this section that are financed with the proceeds of the board's~~  
 30 ~~bonds, notes, or bond anticipation notes issued in accordance with~~  
 31 ~~this section. The department is authorized and directed to execute~~  
 32 ~~and deliver any and all leases, contracts, agreements, or other~~  
 33 ~~documents necessary or advisable to consummate the sale of~~  
 34 ~~bonds or otherwise effectuate the financing of the project~~  
 35 ~~described in this section.~~

36 (6) *The State Public Works Board shall not itself be deemed a*  
 37 *lead or responsible agency for purposes of the California*  
 38 *Environmental Quality Act (Division 13 (commencing with*  
 39 *Section 21000 of the Public Resources Code) for any activities*  
 40 *under the State Building Construction Act of 1955 (Part 10b*

1 *(commencing with Section 15800) of Division 3). This paragraph*  
2 *does not exempt the department from the requirements of the*  
3 *California Environmental Quality Act. This paragraph is*  
4 *declarative of existing law.*

5 SEC. 2. Section 14669.15 of the Government Code is  
6 amended to read:

7 14669.15. (a) (1) The Director of General Services may  
8 enter into one or more agreements to acquire, construct, purchase,  
9 lease, lease-purchase, lease-purchase finance, or lease with an  
10 option to purchase, with an initial option purchase price that  
11 exceeds two million dollars (\$2,000,000), for the purpose of  
12 providing approximately 226,100 net usable square feet of office  
13 and related space and 136,000 net usable square feet of parking in  
14 a suburban location in the San Diego region.

15 (2) In connection with the selection and acquisition of a lease,  
16 lease-purchase, lease-purchase finance, or lease with an option to  
17 purchase, which shall be collectively referred to for purposes of  
18 this section as a “lease” or “leases,” the department shall  
19 advertise and award the lease or leases in accordance with  
20 subdivision (b) of Section 14669 to the lowest responsible bidder  
21 offering to provide a building that meets the state’s requirements.

22 (b) (1) The State Public Works Board may issue revenue  
23 bonds, negotiable notes, or negotiable bond anticipation notes  
24 pursuant to the State Building Construction Act of 1955 (Part 10b  
25 (commencing with Section 15800)) to finance the acquisition of  
26 the facilities authorized in subdivision (a). The board may borrow  
27 funds for project costs from the Pooled Money Investment  
28 Account pursuant to Sections 16312 and 16313. In the event the  
29 bonds authorized for the projects are not sold, the Department of  
30 General Services shall adjust the Building Rental Account of the  
31 Service Revolving Fund by an amount sufficient to repay any  
32 loans made by the Pooled Money Investment Account. It is the  
33 intent of the Legislature that this commitment be included in future  
34 Budget Acts until outstanding loans from the Pooled Money  
35 Investment Account are repaid either through the sale of bonds or  
36 from an appropriation.

37 (2) The amount of revenue bonds, negotiable notes, or  
38 negotiable bond anticipation notes to be sold shall equal the cost  
39 of acquisition, including land, construction, furnishings and  
40 equipment, preliminary plans and working drawings, construction

management and supervision, and other costs relating to the design and construction of the facilities, exercising any purchase option, and any additional sums necessary to pay interim and permanent financing costs and costs to issue these bonds. The additional amount may include interest and a reasonable required reserve fund.

(3) Authorized costs of the facilities, including land acquisition, preliminary plans, working drawings, and construction shall not exceed forty-five million dollars (\$45,000,000) for the suburban facility.

(4) Notwithstanding Section 13332.11, the State Public Works Board may authorize the augmentation of the amount authorized pursuant to this subdivision by up to 10 percent of the amount specifically authorized.

(c) Notwithstanding Section 13340, funds derived from the interim and permanent financing or refinancing of the facilities specified in this section are hereby continuously appropriated without regard to fiscal years for these purposes.

(d) The net present value of the cost to acquire and operate the facilities authorized in subdivision (a) may not exceed the net present value of the cost to lease and operate an equivalent amount of office space, including the present facilities, over the same time period. The Department of General Services, in performing this analysis, shall obtain interest rates, discount rates, and the consumer price index figures from the Treasurer.

(e) The director shall not enter into any agreement to acquire facilities, as specified in subdivision (a), any sooner than 45 days after notification, including the information specified in subdivision (d), to the Chairperson of the Joint Legislative Budget Committee. It is the intent of the Legislature that the Joint Legislative Budget Committee hold a hearing on the pending agreement.

~~SEC. 2.—~~

SEC. 3. Section 14669.16 of the Government Code is amended to read:

14669.16. (a) Notwithstanding any other provision of law, the Director of General Services may develop approximately 241,000 net usable square feet of new state-owned office space in the City of San Diego bounded by Ash, Union, “A,” State, and Front Streets. This development shall include, but not be limited

1 to, the financing, planning, acquisition, construction,  
2 deconstruction, equipping, and furnishing of new state office  
3 buildings and associated child care and parking facilities, and any  
4 betterments, improvements, and facilities related to the  
5 development. The development shall comply with the state's  
6 ~~regulations for~~ *policies related to* sustainability and architectural  
7 excellence in public buildings.

8 (b) (1) The State Public Works Board may issue revenue  
9 bonds, negotiable notes, or negotiable bond anticipation notes  
10 pursuant to the State Building Construction Act of 1955 (Part 10b  
11 (commencing with Section 15800)) to finance the acquisition,  
12 *design, and construction* of the facilities authorized in subdivision  
13 (a). The board may borrow funds for project costs from the Pooled  
14 Money Investment Account pursuant to Sections 16312 and  
15 16313 *or any other lawfully available source including, but not*  
16 *limited to, the General Fund*. In the event the bonds authorized for  
17 the ~~projects~~ *project* are not sold, the Department of General  
18 Services shall ~~adjust the Building Rental Account of the Service~~  
19 ~~Revolving Fund by an amount sufficient~~ *commit a sufficient*  
20 *amount of its support budget* to repay any outstanding loans ~~made~~  
21 ~~by the Pooled Money Investment Account~~. It is the intent of the  
22 Legislature that this commitment be included in future Budget  
23 Acts until outstanding loans ~~from the Pooled Money Investment~~  
24 ~~Account~~ are repaid either through the sale of bonds or from an  
25 appropriation.

26 (2) The amount of revenue bonds, negotiable notes, or  
27 negotiable bond anticipation notes to be sold shall equal the cost  
28 of acquisition, including land, construction, furnishings and  
29 equipment, preliminary plans and working drawings, construction  
30 management and supervision, and other costs relating to the design  
31 and construction of the facilities, exercising any purchase option,  
32 and any additional sums necessary to pay interim and permanent  
33 financing costs and costs to issue these bonds. The ~~additional~~  
34 ~~amount may include interest and a reasonable required reserve~~  
35 ~~fund~~. *additional amount may include interest and the*  
36 *establishment of a reasonable construction reserve fund to ensure*  
37 *that the funds are available in the event future augmentations are*  
38 *needed to complete the facilities authorized in subdivision (a). In*  
39 *the event these construction funds are not needed to complete the*  
40 *construction, they shall be used to repay the future debt payments.*

(3) Authorized costs of the facilities, including land acquisition, preliminary plans, working drawings, and construction shall not exceed ~~81 million dollars (\$81,000,000)~~ *96 million dollars (\$96,000,000)*.

(c) In connection with the development or any agreement for any work or expenses in connection with the development, the Director of General Services may use any funds lawfully available to him or her in order to complete the development.

(d) It is in the best interest of the people of the state to consolidate state offices in the City of San Diego, ~~therefore a “design-build” concept may be utilized in meeting the objective of this section pursuant to Section 14661.~~

~~(e) It is the intent of the Legislature that this commitment shall be included in future Budget Acts until all outstanding loans from the Pooled Money Investment Account are repaid either through the proceeds from the sale of bonds or from an appropriation in the annual Budget Act.~~

~~(f) The director may form a design advisory committee composed of representatives designated by the City of San Diego and any other individuals designated by the director. The design advisory committee’s function shall be solely limited to providing comments and suggestions regarding the design of the development and shall have no role in selecting any architects, engineers, contractors, or design build teams. Diego. If the director selects design-build as the method of delivery, the department shall use the method of design-build authorized by clause (i) of subparagraph (A) of paragraph (3) of subdivision (d) of Section 14661.~~

*(e) The director may form a voluntary advisory committee composed of representatives designated by the City of San Diego and any other individuals designated by the director. The design advisory committee’s functions shall be defined by the director, be in the best interest of the state, comply with all applicable laws.*

*(f) The department is authorized and directed to execute and deliver any and all leases, contracts, agreements, or other documents necessary or advisable to consummate the sale of bonds or otherwise effectuate the financing of the project described in subdivision (a).*

SEC. 4. Section 14957 of the Government Code is amended to read:

1 14957. (a) The Division of Architecture Revolving Fund in  
2 the State Treasury is continued in existence and is retitled the  
3 Architecture Revolving Fund, *and notwithstanding Section*  
4 *13340, is continuously appropriated, without regard to fiscal*  
5 *years.* With the approval of the Department of Finance, and except  
6 as otherwise specified in this section, there shall be transferred to,  
7 or deposited in, the fund all money appropriated, contributed, or  
8 made available from any source, including sources other than state  
9 appropriations, for expenditure on work within the powers and  
10 duties of the Department of General Services with respect to the  
11 construction, alteration, repair, and improvement of state  
12 buildings, including, but not limited to, services, new  
13 construction, major construction and equipment, minor  
14 construction, maintenance, improvements, and equipment, and  
15 other building and improvement projects, as authorized by the  
16 state agency for which an appropriation is made or, as to funds  
17 from sources other than state appropriations, as may be authorized  
18 by written agreement between the contributor or contributors of  
19 funds and the Department of General Services, when approved by  
20 the Department of Finance.

21 **Money**

22 (b) Money from state sources transferred to, or deposited in, the  
23 fund for major construction shall be limited to the amount  
24 necessary based on receipt of competitive bids. Money transferred  
25 for this purpose shall be upon approval of the Department of  
26 Finance. Any amount available, in the state appropriation, which  
27 is in excess of the amount necessary based on receipt of  
28 competitive bids, shall be immediately transferred to the credit of  
29 the fund from which the appropriation was made.

30 **Money**

31 (c) Money in the fund also may be used, upon approval of the  
32 Department of Finance, to finance the cost of any construction  
33 projects within the powers and duties of the Department of General  
34 Services for which the federal government will contribute a partial  
35 cost thereof; provided, written evidence has been received from a  
36 federal agency that money has been appropriated by Congress and  
37 the federal government will pay to the state the amount specified  
38 upon the completion of construction of the project. The Director  
39 of General Services may approve plans, specifications and  
40 estimates of cost, and advertise for and receive bids on such

1 projects in anticipation of the receipt of ~~such~~ *written evidence from*  
2 *a federal agency.*

3 **Money**

4 (d) Money so transferred or deposited is available for  
5 expenditure by the Department of General Services for the  
6 purposes for which appropriated, contributed, or made available,  
7 without regard to fiscal years ~~and irrespective of the provisions of~~  
8 ~~Section 16304.~~

9 **SEC. 3.—**

10 SEC. 5. This act is an urgency statute necessary for the  
11 immediate preservation of the public peace, health, or safety  
12 within the meaning of Article IV of the Constitution and shall go  
13 into immediate effect. The facts constituting the necessity are:

14 ~~In order that the authority of the Director of General Services~~  
15 ~~with respect to state office and parking facilities located in San~~  
16 ~~Diego may be changed in order to facilitate the development of a~~  
17 ~~state office project in San Diego as soon as possible, it is necessary~~  
18 ~~that this act take effect immediately.~~

19 *In order that the authority of the Department of General*  
20 *Services and the director of that department with respect to*  
21 *specified state facilities, state offices, and parking facilities may be*  
22 *changed to facilitate the development of these state public work*  
23 *projects, and the Architecture Revolving fund may be amended, as*  
24 *soon as possible, it is necessary that this act take effect*  
25 *immediately.*